



FILED
IN CLERKS OFFICE

2004 OCT 21 P 4:21

U.S. DISTRICT COURT
DISTRICT OF MASS.

Main Reception: (617) 748-3100

U.S. Department of Justice

United States Attorney
District of Massachusetts

United States Courthouse, Suite 9200
1 Courthouse Way
Boston, Massachusetts 02210

October 21, 2004

VIA HAND DELIVERY

Miriam Conrad
Federal Defender's Office
408 Atlantic Avenue
Boston, MA 02210

VIA FEDERAL EXPRESS

Percy Martinez, Esquire
2 Alhambra Plaza
Suite 801
Coral Gables, FL 33134

Re: United States v. Julio Grande and Ivan Velez, et al
03-CR-10331-RGS

Dear Counsel:

Pursuant to Fed. R. Crim. P. 16 and Rules 116.1(C) and 116.2 of the Local Rules of the United States District Court for the District of Massachusetts, the government provides the following automatic discovery, Bates numbers 1 through 12185 (which Mr. Martinez has already received except for Bates numbers 12104-12185 that are enclosed to him with this letter and N44, 45, 47, 48, 49), in addition to the discovery you have already received in connection with the detention hearing in the above-referenced case:

A. Rule 16 Materials

1. Statements of Defendant under Rule 16 (a)(1)(A)

a. Written Statements

There are no relevant written statements of the defendants in the possession, custody or control of the government, which are known to the attorney for the government at this time.

b. Recorded Statements

A copy of the following consensual recordings have already been produced to Mr. Martinez and are enclosed for Ms. Conrad:

T1 through T37.

d. Oral Statements to Then Known Government Agents

The reports referencing oral statements to then known government agents are enclosed in the Bates numbered documents.

2. Defendant's Prior Record under Rule 16 (a) (1) (B)

It is the government's understanding that you have already received a copy of defendant's record. If this is not the case, please let me know and I will send you a copy.

3. Documents and Tangible Objects under Rule 16(a) (1) (C)

All books, papers, documents and tangible items, including N1-N51, which are within the possession, custody or control of the government, and which are material to the preparation of the defendants' defense or are intended for use by the government as evidence in chief at the trial of this case, or were obtained from or belong to the defendants, may be inspected by contacting Special Agent Henry Basile at 617-565-7386. For your convenience, copies of N-exhibits 31, 33, 34, 36 thru 39, 41 thru 49 are enclosed.

4. Reports of Examinations and Tests under Rule 16 (a) (1) (D)

There are no examinations or tests that were conducted.

B. Search Materials under Local Rule 116.1(C) (1) (b)

Consensually obtained search materials are set forth in the reports enclosed in the Bates numbered documents.

C. Electronic Surveillance under Local Rule 116.1(C) (1) (c)

No oral, wire, or electronic communications of the defendant as defined in 18 U.S.C. § 2510 were intercepted relating to the charges in the indictment.

D. Consensual Interceptions under Local Rule 116.1(C) (1) (d)

A written description of interceptions (as the term

"intercept" is defined in 18 U.S.C. § 2510(4)) of oral communications, involving the charges contained in the indictment made with consent of one of the parties to the communication ("consensual interceptions"), in which the defendants were intercepted or which the government intends to offer as evidence in its case-in-chief are enclosed in the Bates numbered documents. Paragraph A(1)(b) lists the tapes on which the intercepted communications were recorded and a copy of the recordings T1-T37 are enclosed or have been provided to you.

E. Unindicted Coconspirators under Local Rule 116.1(C)(1)(e)

At this time, the government objects and declines to identify unindicted co-conspirators, as it would jeopardize the ongoing investigation.

F. Identifications under Local Rule 116.1(C)(1)(f)

CW#1 photo array identification of Ivan Velez, N-35 is enclosed in the Bates numbered documents.

G. Agency Reports and Investigatory Materials

Although it is the government's position that the production of the following may not be required at this time under either Federal Rule of Criminal Procedure 16 or Local Rule 116, in an overabundance of caution, the government hereby provides copies of Boston Customs Reports 1 through 35 and New York Customs Reports 1 through 4 and additional agency reports and investigatory materials in the Bates numbered documents enclosed. Additionally, enclosed are copies of the following CDs:

One CD entitled "Western Union MO's"
One CD entitled "Audio"
One CD entitled "Pen Registers"

H. Exculpatory Evidence Under Local Rule 116.2(B)(1)

With respect to the government's obligation under Local Rule 116.2(B)(1) to produce "exculpatory evidence" as that term is defined in Local Rule 116.2(A), the government states as follows:

1. The attorney for the government is unaware of any information that would tend directly to negate the defendant's guilt concerning any count in the indictment.

2. The attorney for the government is unaware of any information that would cast doubt on the admissibility of

evidence that the government anticipates offering in its case-in-chief and that could be subject to a motion to suppress or exclude.

3. Promises, rewards, or inducements have been given to witnesses whom the government anticipates calling in its case-in-chief as follows:

Although it is my understanding that you know the identity of CW#1 and CW#2 and CW#3, please call me and I will confirm the identities over the phone. Enclosed are the redacted proffer letters and plea agreements for CW#1 (Bates#s 12108-12124) and CW#2 (Bates#s 12125-12140) with their identifying information redacted. Also enclosed is the redacted proffer letter, complaint and indictment for CW#3 Bates 12141-2 and 12175-12185, respectively.

4. The government is aware that the CW1 through CW3, case-in-chief witnesses, have criminal records, redacted copies of which are enclosed at Bates numbers 12143-4, and 12145-7, 12148-12155, respectively.

5. As referenced above, CW1, CW2, and CW3 have criminal cases pending as set forth in the redacted charging documents enclosed in the Bates numbered documents and referenced above in Section 2 and 3.

6. The attorney for the government is unaware of any percipient witness who failed to make a positive identification of defendant with respect to the crimes at issue.

H. Other Matters

The attorney for the government is aware of its continuing duty to disclose newly discovered additional evidence or material that is subject to discovery or inspection under Local Rules 116.1 and 116.2(B)(1) and Rule 16 of the Federal Rules of Criminal Procedure.

The government requests reciprocal discovery pursuant to Rule 16(b) of the Federal Rules of Criminal Procedure and Local Rule 116.1(D).

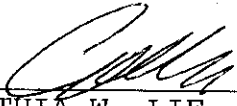
The government demands, pursuant to Rule 12.1 of the Federal Rules of Criminal Procedure, written notice of the defendants intention to offer a defense of alibi. The time, place, and manner of the allegations against the defendants are set forth in the Second Superseding Indictment you have already received.

Please call the undersigned Assistant U.S. Attorney at 617-748-3183 if you have any questions.

Very truly yours,

MICHAEL J. SULLIVAN
United States Attorney

By:



CYNTHIA W. LIE
Assistant U.S. Attorney

Enclosures

cc: Dianalynn Saccoccio
Clerk to the Honorable Magistrate Marianne B. Bowler
(redacted and w/o enclosures)